

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *JE* D.C.

05 OCT -6 AM 10:34

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN MEMPHIS

ERIC L. OWENS,

Petitioner,

vs.

WARDEN, MARSHALL COUNTY
CORRECTIONAL FACILITY, et al.,

Respondents.

No. 05-2574-B/P

ORDER CORRECTING THE DOCKET
AND

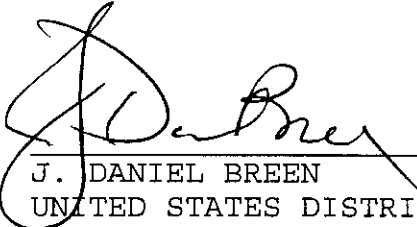
ORDER DIRECTING PETITIONER TO FILE AN IN FORMA PAUPERIS AFFIDAVIT
OR PAY THE HABEAS FILING FEE

Petitioner Eric L. Owens, Bureau of Prisons inmate registration number 10990-042, an inmate at the Marshall County Correctional Facility ("MCCF") in Holly Springs, Mississippi, filed a pro se petition pursuant to 28 U.S.C. § 2241 on August 10, 2005. The Clerk shall record the respondents as the warden of the MCCF and Attorney General Alberto Gonzales.¹

¹ Although the petition lists the United States of America as respondent, the only proper respondent to a habeas petition ordinarily is the warden of the prison where the petitioner is incarcerated. See Rumsfeld v. Padilla, 124 S. Ct. 2711, 2718 (2004). Because the petition seeks to have the federal government take jurisdiction over the petitioner, the Court has added the United States Attorney General as an additional respondent. The Clerk is ORDERED to terminate the United States of America as a party to this action.

A habeas petition carries a filing fee of five dollars (\$5.00). 28 U.S.C. § 1914(a). Owens's petition is not accompanied by either the filing fee or a motion to proceed in forma pauperis. Accordingly, Owens is ORDERED either to submit a properly completed in forma pauperis affidavit demonstrating his indigency, along with an inmate trust fund account statement, or pay the filing fee thirty (30) days of the entry of this order. The Clerk is ORDERED to mail a copy of the prisoner in forma pauperis affidavit to petitioner along with this order.² Failure to timely comply with any requirement of this order will result in dismissal of the petition without further notice for failure to prosecute.

IT IS SO ORDERED this 6th day of October, 2005.


J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE

² In the interest of expediting this matter, petitioner is advised that, if his inmate trust fund account has a balance of at least twenty-five dollars (\$25.00), an application to proceed in forma pauperis will be denied.



Notice of Distribution

This notice confirms a copy of the document docketed as number 2 in case 2:05-CV-02574 was distributed by fax, mail, or direct printing on October 6, 2005 to the parties listed.

Eric L. Owens
#L1531
833 West Street
Holly Springs, MS 38635--141

Honorable J. Breen
US DISTRICT COURT